SLAUGHTER AND MAY/

CLIENT BRIEFING

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2021 HR BUDGET BRIEFING

One Bunhill Row
London EC1Y 8YY
United Kingdom
T: +44 (0)20 7600 1200

Welcome to our 2021 HR Budget Briefing, summarising the key implications for employees and their employers of the UK Budget announced on 3 March 2021. Many commentators will rightly focus on the extension of the employee furlough regime until September, but there were other important announcements. Whilst the Budget did not deliver the income and capital gains tax rises that some were expecting, a number of current tax thresholds and allowances have been frozen (in some cases until 2026), which will have consequences for most companies and their employees (in particular participants in HMRC tax-advantaged share plans).

TAX RATES

The headline rates of income tax, National Insurance contributions (NICs) and capital gains tax (CGT) remain unchanged. However, a number of tax allowances and thresholds will be frozen for the coming years, in particular:

- the income tax personal allowance will increase to £12,570 p.a. in April 2021, but will then remain frozen at this level until April 2026
- the income tax higher rate threshold will increase to £50,270 in April 2021, but will then remain frozen at this level until April 2026
- the annual exempt amount for CGT will be frozen at £12,300 p.a. until April 2026

Over the coming years, the effect of inflation is likely to erode the value of the CGT annual exempt amount and bring more taxpayers into the higher (40%) and additional (45%) tax bands. More participants in HMRC tax-advantaged employee share plans (such as Company Share Option Plans or Sharesave Plans) may find that gains arising from the sale of their shares following the exercise of their options are liable to CGT (as these gains exceed the annual exempt amount). Participants may seek to take steps to mitigate such CGT liabilities, for instance by staggering sales of their shares over several years or transferring some of their shares to their spouse to take advantage of their spouse’s annual exempt amount too.

CJRS EXTENSION

As widely reported in the run-up to the Budget, the Coronavirus Job Retention Scheme (CJRS), commonly referred to as the “furlough scheme”, will be extended until 30 September 2021. The CJRS had been due to close on 30 April 2021, meaning that employers proposing large-scale redundancies when the CJRS was withdrawn may have needed to start the collective consultation process in two weeks’ time. It seems the UK Government is hoping to provide sufficient certainty as to the support which will be available to minimise the risk of widespread redundancies.

The CJRS extension will maintain the scheme on its current terms until the end of July. Assuming the UK Government’s roadmap out of the current lockdown in England goes as planned, all areas of the economy will fully reopen by 21 June. It is not yet clear whether, if the roadmap needs to be extended, the CJRS will be further extended to reflect the revised timeline.

Under the new CJRS, starting on 1 July 2021, employers will be expected to pay 10% of wage costs for the hours their staff do not work. The employer contribution will increase to 20% of wage costs for both August and September 2021. The levels of employer contribution mirror those which were required in September and October 2020, when the CJRS grant was tapered off after the first national lockdown.

The CJRS grants and employer contributions announced today are summarised in the table below:

	CJRS grant	Employer contribution	
	For furloughed hours	For furloughed hours	For working hours
March to June 2021	80% of wages up to a cap of £2,500.	Any additional amount which remains payable under the employee's contract (including holiday pay top up to 100% of salary) Employer NICs and pension contributions	Normal contractual pay Employer NICs and pension contributions
July 2021	70% of wages up to a cap of £2,187.50	10% of wages, up to a cap of £312.50 Any additional amount which remains payable under the employee's contract (including holiday pay top up to 100% of salary) Employer NICs and pension contributions	Normal contractual pay Employer NICs and pension contributions
August and September 2021	60% of wages up to a cap of £1,875	20% of wages, up to a cap of £625 Any additional amount which remains payable under the employee's contract (including holiday pay top up to 100% of salary) Employer NICs and pension contributions	Normal contractual pay Employer NICs and pension contributions

The CJRS extension to September is more generous than many had anticipated. In light of the roadmap out of lockdown, a long-stop date of the end of June was more widely expected. However, the timeline is still behind some other European countries. For example, Germany's wage support scheme has now been extended until the end of 2021.

The Chancellor has also continued to resist calls for a more tailored approach to the CJRS, which would have focused greater support on those sectors who have made the most use of the CJRS, such as the hospitality industry.

There will be further details of the extension to come - a new Treasury Direction and updated HMRC guidance is expected in the coming days. There may need to be further changes for employers to be aware of at that stage. For instance, the current requirement that employees must have been on payroll on 30 October 2020 was imposed on the last extension of the CJRS beyond that date. It is not yet clear if this payroll cut-off date will be extended, perhaps to 30 April 2021, to allow employers to furlough more new recruits.

There was also no announcement about any measures which may be put in place following the closure of the CJRS in September 2021. A £1,000 "Job Retention Bonus" (JRB) was proposed last year, and was intended to operate after the CJRS was due to close on 31 October 2020, for employers who brought employees back from furlough and kept them in their jobs until 31 January 2021. The JRB was withdrawn when the CJRS was extended, and at that time the UK Government indicated that a new "retention incentive" will be deployed at an "appropriate time". It remains to be seen whether the JRB will be brought back in September 2021, or any other retention incentive is put in its place.

SEISS EXTENSION

The Budget also included an extension of the Self-Employment Income Support Scheme (SEISS). A fourth grant will be worth 80% of three months' average trading profits, paid out in a single instalment and capped at £7,500 in total. The grant will cover the period of February to April 2021, and can be claimed from late April 2021. Self-employed individuals must have filed a 2019/20 self-assessment tax return to be eligible for the fourth grant. This means that over 600,000 individuals may be newly eligible for SEISS, including many new to self-employment in 2019/20. All other eligibility criteria will remain the same as the third grant.

The Chancellor also announced that there will be a fifth and final SEISS grant covering May to September 2021. The value of the grant will be determined by a turnover test; people whose turnover has fallen by 30% or more will continue to receive the full grant worth 80% of three months' average trading profits, capped at £7,500. People whose turnover has fallen by less than 30% will receive a 30% grant, capped at £2,850. The final grant can be claimed from late July 2021.

The UK Government also announced that it is investing over £100 million in a Taxpayer Protection Taskforce of 1,265 HMRC staff to combat fraud within COVID-19 support packages, including the CJRS and SEISS. This represents one of the largest responses to a fraud risk by HMRC. The UK Government also intends to raise awareness of enforcement action in order to deter fraud.

INCOME TAX EXEMPTIONS FOR COVID-19 TESTS AND HOME OFFICE EXPENSES

The Budget also included an extension to the existing exemption from income tax and NICs for COVID-19 antigen tests provided by, or reimbursed by, employers. The extension means that the exemptions will apply to any coronavirus antigen test provided by an employer, and to any reimbursement to an employee for a coronavirus antigen test, for the tax years 2020/21 and 2021/22. It seems that only antigen tests (and not antibody tests) will benefit from the extended exemption, as currently.

In addition, the Chancellor announced an extension to the temporary income tax and Class 1 NICs exemption for employer reimbursed home office expenses. The exemption covers home office equipment which is deemed necessary for an employee to work from home as a result of the coronavirus outbreak, and can for example include a laptop, a desk or necessary computer accessories. The exemption will ensure that employees receive the full reimbursement free from income tax and Class 1 NICs. The exemption was due to end on 5 April 2021, but will now be extended to have effect until 5 April 2022.

An easement for the employer-provided cycles tax exemption has also been published. This measure disapplies the condition which states that cycles and cycling safety equipment, where obtained through a Cycle to Work scheme, must be used mainly for qualifying journeys (to or from work or in the course of work). This measure is designed to minimise the financial burdens for employees who are unable to meet the qualifying condition due to the UK Government's COVID-19 restrictions. The easement will mean that employees who have received a cycle or cycling safety equipment on or before 20 December 2020 will not have to meet the qualifying journeys condition until after 5 April 2022.

OFF-PAYROLL WORKING RULES FOR THE PRIVATE SECTOR

There was no further delay to the planned changes to the off-payroll working rules for the private sector, which will go ahead on 6 April 2021. HMRC confirmed this by publishing an updated tax information and impact note (TIIN) about the April 2021 changes. There was also a TIIN about technical changes to rectify unintended consequences arising from the Finance Act 2020 amendments, which would have caught any arrangement where the worker operates through a company, even if the full payment had already been taxed as employment income (such as where the worker is operating as an employee of an umbrella company).

HIGH SKILLED MIGRATION

Published alongside the Budget documentation was Build Back Better: our plan for growth. This includes new proposals for high-skilled migration, designed to help the UK attract and retain the most highly skilled, globally mobile talent – particularly in academia, science, research and technology – from around the world. The UK Government's proposals include introducing, by March 2022, an elite points-based visa; reforming the Global Talent and Innovator visas; and launching a new Global Business Mobility visa by Spring 2022 for overseas businesses to establish a presence or transfer staff to the UK. The UK Government will also modernise the immigration sponsorship system to make it easier to use, and establish a global outreach strategy by expanding the Global Entrepreneur Programme.

OTHER MEASURES

- The UK Government has published its remit for the Low Pay Commission (LPC) for 2021. The remit asks the LPC to make UK-wide recommendations with the aim of reaching the UK Government's target for a National Living Wage (NLW) of two thirds of median earnings, extended to those aged 21 and over, by 2024.

- The UK Government will also extend and increase the payments made to employers who hire new apprentices. Employers in England who hire a new apprentice between 1 April and 30 September 2021 will receive £3,000 per new hire, compared with £1,500 per new apprentice hire (or £2,000 for those aged 24 and under) under the previous scheme.
- The £20-a-week uplift to Universal Credit payments, due to expire in March 2021, will be extended for a further six months (until 30 September 2021).

CORPORATION TAX

From April 2023, the rate of corporation tax will increase to 25% for businesses making profits of £250,000 or more. Businesses with profits of £50,000 or less will be subject to a special lower rate, set at the current corporation tax rate of 19%. A tapered rate will apply for businesses with profits between £50,000 and £250,000.

The increased rate of corporation tax heightens the importance of companies whose employees participate in employee share plans ensuring that they obtain the (generous) corporation tax deductions in respect of employee share plans where available.

ENTERPRISE MANAGEMENT INCENTIVES (EMI)

Alongside the Budget, the UK Government has published a call for evidence in respect of EMI plans, a form of tax advantaged share plan open to companies with no more than £30 million in gross assets and less than 250 full-time employees. In particular, evidence is being sought on the following areas:

- whether EMI plans are fulfilling the UK Government's policy objectives of helping small businesses to recruit and retain employees
- whether companies that are ineligible for the EMI scheme because they have grown beyond the current qualification limits are experiencing difficulties when recruiting and retaining employees
- whether the eligibility criteria for EMI plans should be extended to allow more high-growth businesses to establish EMI plans
- whether other forms of remuneration could provide similar benefits for retention and recruitment as EMI plans for high-growth companies

The UK Government has asked for responses by 26 May 2021.

LIFETIME ALLOWANCE

The standard lifetime allowance will be frozen at £1,073,100 for the next five tax years (2021/22 to 2025/26), removing the link to CPI (inflationary) increases.

The lifetime allowance is the maximum amount of tax-relieved pension savings that an individual can build up over their lifetime. When pension benefits are taken that exceed this allowance, there is a tax charge on the excess charged at 25% on the capital value of pension benefits and 55% where benefits are taken in lump sum form.

Freezing the lifetime allowance means that a broader group of pension savers will potentially be affected. For employers, this means that a broader group of employees may be interested in alternative remuneration options to pension provision.

DC SCHEME INVESTMENT

As part of its push to remove regulatory barriers to defined contribution pension schemes investing in higher growth assets such as venture capital and private equity, the UK Government will consult in the next month on whether certain costs within the auto-enrolment charge cap affect these schemes' ability to invest. Draft regulations are also expected to allow smoothing of certain performance fees over a multi-year period. This follows on from the September 2020 UK Government response to the Investment Innovation and Future Consolidation consultation.

CONTACT

- CHARLES CAMERON
- PARTNER
- T:+44 (0)20 7090 5086
- E:Charles.Cameron@slaughterandmay.com

- PADRAIG CRONIN
- PARTNER
- T: +44 (0)20 7090 3415
- E:Padraig.Cronin@slaughterandmay.com

- PHIL LINNARD
- PARTNER
- T: +44 (0)20 7090 3961
- E:Philip.Linnard@slaughterandmay.com

- SANDY MAUDGIL
- PARTNER
- T: +44 (0)20 7090 5408
- E:sandeep.maudgil@slaughterandmay.com

- DAN SCHAFFER
- PARTNER
- T: +44 (0)20 7090 5090
- E:Daniel.schaffer@slaughterandmay.com

- IAN BROWN
- SENIOR COUNSEL
- T: +44 (0)20 7090 39613576
- E:Ian.brown@slaughterandmay.com

- LIZZIE TWIGGER
- SENIOR COUNSEL
- T: +44 (0)20 7090 5174
- E:Lizzie.twigger@slaughterandmay.com

- CLARE FLETCHER
- PROFESSIONAL SUPPORT LAWYER COUNSEL
- T: +44 (0)20 7090 5135
- E:Clare.fletcher@slaughterandmay.com

London
T +44 (0)20 7600 1200
F +44 (0)20 7090 5000

Brussels
T +32 (0)2 737 94 00
F +32 (0)2 737 94 01

Hong Kong
T +852 2521 0551
F +852 2845 2125

Beijing
T +86 10 5965 0600
F +86 10 5965 0650